

- Appendix B – Proposed changes document

No	Section*	Licensing Area	Item	Current situation	Proposed change	Working party agreement
1	6.2	Drivers	<p><b>Criminality checks for applicants and holders of driver’s licences – Enhanced Disclosure</b></p> <p>Drivers to be subject to an Enhanced Disclosure and Barring Service (DBS) check with searches on both barred lists.</p>	Every 3 years.	Every 6 months.	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>
2	6.14	Drivers	<p><b>Language proficiency test</b></p> <p>Th DfT has commented that: “A lack of language proficiency could impact on a driver’s ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.”</p> <p>Whilst the ‘Standards’ do not require adoption of a formal qualification in English language proficiency, the Council acknowledges the guidance above and notes some licensing authorities have such a requirement as part of their application process.</p>	English language proficiency and numeracy is examined to an extent in the submission of the licence application, together with supporting documents; the Knowledge Test (which all applicants must pass – 80% pass mark); and the completion of the Driver Improvement Programme (DIP), Safeguarding training course, and the BTEC.	We are seeking views on requiring applicants to obtain a recognised qualification or pass an approved course in English language proficiency.	Working party felt that current system was sufficient to assess proficiency. Therefore no new formal qualification is proposed.

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3	7.2	Vehicles	<p><b>Criminality checks for applicants and proprietors of vehicle licences – Basic Disclosure</b></p> <p>Applicants and proprietors of vehicle licences (who are not existing holders of a driver’s licence) to be subject to a Basic Disclosure check.</p>	Not required by the licensing authority.	Every 12 months.	<p>Agreed with proposed changes.</p> <p>Implementation: Within 6 months</p>
4	4.33 and 7.7 – 7.13	Vehicles	<p><b>In-vehicle visual and audio recording – CCTV</b></p> <p>In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an ‘independent witness’ to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.13 of the ‘Standards’.</p> <p>All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.</p> <p>Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to the ‘Standards’ document (Annex – CCTV guidance).</p>	Not required by the licensing authority.	We are seeking views on mandating, as a condition(s) of licence, a requirement to install CCTV in both private hire vehicles and hackney carriages.	<p>Determined that mandating CCTV would not be implemented. However, the use of CCTV would be encouraged and advice given. An advisory note has been produced by the licensing team in conjunction with the data protection officer.</p>

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5	7.6 and 8.6  (4.34-4.36)	Vehicles & Operators	<p><b>Criminality checks for applicants and proprietors of both vehicle licences and private hire operator licences – ‘Certificates of Good Character’</b></p> <p>The DBS cannot access criminal records held overseas so other checks must be considered where an applicant has lived or worked overseas. Licensing Authorities should therefore seek or require applicants to provide where possible criminal records information or a ‘Certificate of Good Character’ from overseas in this circumstance to properly assess risks and support the decision-making process.</p>	Not required by the licensing authority.	In the case of an overseas applicant or an applicant that has spent more than 3 months out of this country; the applicant must provide a Certificate of Good Conduct, together with an authenticated and certified translation, from the relevant embassy for every country they have lived in, where appropriate.	<p>Agreed with proposed change</p> <p>Implementation: Within 6 months</p>
6	8.2	Operators	<p><b>Criminality checks for applicant and proprietors of private hire operator licences – Basic Disclosure</b></p> <p>Applicants and proprietors of a private hire operator’s licence (who are not existing holders of a driver’s licence) to be subject to a Basic Disclosure check. Where a company or partnership applies or holds a licence then each director or partner will be required to produce a Basic Disclosure certificate.</p>	Every 5 years.	Every 12 months.	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>

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7	8.8	Operators	<p><b>Register of staff</b></p> <p>Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.</p> <p>Licensing authorities should therefore, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.</p>	Not required by the licensing authority.	It shall become a condition of the licence that the operator maintains a live register of all booking and dispatch staff, where applicable.	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>
8	8.9	Operators	<p><b>Criminality checks for booking and dispatch staff employed by private hire operators</b></p> <p>Operators should be required to evidence that they have had sight of a Basic Disclosure check for all individuals listed on their register of booking and dispatch staff and to ensure that Basic Disclosure checks are conducted on any individuals added to the register and that it is compatible with their policy on employing ex-offenders.</p>	Not required by the licensing authority.	It shall become a condition of the licence that the operator must require and declare that all booking and dispatch staff have been subject to a Basic Disclosure, where applicable.	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>

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9	8.13 and 8.14	Operators	<p><b>Record keeping standards for private hire operators</b></p> <p>Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking: the name of the passenger; the time of the request; the time the vehicle is required; the pick-up point; the destination; the name of the driver; the driver's licence number; the vehicle registration number of the vehicle, the name of any individual that responded to the booking request; and, the name of any individual that dispatched the vehicle.</p>	Operators are required to maintain records to the standards as per Appendix B of the 'Hackney Carriage & Private Hire Licensing Policy'.	It shall become a condition of the licence that the operator must maintain the information outlined opposite for each booking for a minimum of 6 months.	<p>Agreed with proposed change</p> <p>Implementation: Within 6 months</p>
10	8.15	Operators	<p><b>Registration with the Information Commissioner's Office as a data controller</b></p> <p>Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office (ICO) provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.</p>	Some Operators may already be registered with the ICO, but confirmation checks are not routinely undertaken by the Council, nor are they mandated by the Council.	It shall become a condition of the licence that the operator must register with the ICO as a data controller, where applicable.	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>

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11	8.16	Operators	<p><b>Use of passenger carrying vehicles (PCV) licensed drivers</b></p> <p>PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. The use of a driver who holds a passenger carrying vehicle (PCV) licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator’s licence without the informed consent of the booker. Where a booking required provision of a PSV then the person making the booking should be advised that a PCV licensed driver is subject to different checks.</p>	Not a condition attached to operator licences.	It shall become a condition of the licence that the operator must not use a PCV licensed driver and PSV to fulfil a booking without the consent of the booker. Where used, the booker must be advised the driver is subject to different checks.	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>

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12	4.12	General	<p><b>Notification of convictions etc.</b></p> <p>Licence holders must notify the licensing authority of any arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.</p>	<p>Licensed drivers must notify the Council in writing immediately of any criminal convictions, findings of guilt (including fixed penalty tickets), cautions and warnings, whether for motoring or other offences, and any breaches of this requirement may result in the suspension of the licence and the matter will be referred to the Licensing Committee for consideration.</p> <p>Licensed operators shall report to the Council's Licensing Officer all convictions notified by persons working under the Operator's Licence.</p>	<p>Within 48 hours (2 days).</p>	<p>Agreed with proposed change.</p> <p>Implementation: Within 6 months</p>

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13	4.14	General	<p><b>Referral of matters to the Disclosure and Barring Service (DBS)</b></p> <p>Any decision by the licensing authority to refuse to grant or revoke a licence as an individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. Rationale include:            a) an individual has harmed or poses a risk of harm to a child or vulnerable adult; b) an individual has satisfied the '<u>harm test</u>'; c) received a caution or conviction for a relevant offence; and, d) the person they are referring is, has or might in the future be working in a regulated activity.</p>	Not routinely undertaken.	Relevant matters to be referred to the DBS, where considered appropriate.	<p>Agreed with proposed change.</p> <p>Implementation: Immediately</p>

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14	5.16	General	<p><b>Assessment of previous convictions</b></p> <p>The following eligibility criteria should be adopted and used as a starting point when considering whether to grant or renew a licence. Where a definite period is given then this will take effect after the completion of any sentence has elapsed. Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.</p> <p><i>N.B. for current assessment of previous convictions please see 'Statement Of Policy On Relevant Convictions' (Appendix I of the 'Hackney Carriage &amp; Private Hire Licensing Policy').</i></p> <table border="1" data-bbox="461 528 1912 1321"> <thead> <tr> <th data-bbox="461 528 1402 667">Offence</th> <th data-bbox="1402 528 1912 667">Minimum period that must have elapsed before considering whether to grant or renew a licence</th> </tr> </thead> <tbody> <tr> <td data-bbox="461 667 1402 743">A. Crimes resulting in the death of another person or intention to cause the death or serious injury of another person.</td> <td data-bbox="1402 667 1912 743">Applicant / licensee will not be licensed.</td> </tr> <tr> <td data-bbox="461 743 1402 858">B. Crimes involving, related to or connected with abuse, exploitation use or treatment of another individual irrespective of whether the victim or victims were adults or children.</td> <td data-bbox="1402 743 1912 858">Applicant / licensee will not be licensed.</td> </tr> <tr> <td data-bbox="461 858 1402 935">C. Offences involving violence against the person or connected with any violence against a person.</td> <td data-bbox="1402 858 1912 935">10 years</td> </tr> <tr> <td data-bbox="461 935 1402 975">D. Possession of a weapon or any weapon-related offence.</td> <td data-bbox="1402 935 1912 975">7 years</td> </tr> <tr> <td data-bbox="461 975 1402 1051">E. Sexual offences and individuals listed on the Sex Offenders Register or barred lists.</td> <td data-bbox="1402 975 1912 1051">Applicant / licensee will not be licensed.</td> </tr> <tr> <td data-bbox="461 1051 1402 1091">F. Offences involving an element of dishonesty.</td> <td data-bbox="1402 1051 1912 1091">7 years</td> </tr> <tr> <td data-bbox="461 1091 1402 1206">G. Drugs: i) Supply or possession with intent to supply. ii) Possession only.</td> <td data-bbox="1402 1091 1912 1206">10 years 5 years *</td> </tr> <tr> <td data-bbox="461 1206 1402 1246">H. Discrimination offences.</td> <td data-bbox="1402 1206 1912 1246">7 years</td> </tr> <tr> <td data-bbox="461 1246 1402 1286">I. Drink driving/driving under the influence of drugs.</td> <td data-bbox="1402 1246 1912 1286">7 years *</td> </tr> <tr> <td data-bbox="461 1286 1402 1321">J. Using a handheld device whilst driving.</td> <td data-bbox="1402 1286 1912 1321">5 years</td> </tr> </tbody> </table> <p data-bbox="461 1321 1912 1423">* in addition, any applicant/licence holder may also be required to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.</p>	Offence	Minimum period that must have elapsed before considering whether to grant or renew a licence	A. Crimes resulting in the death of another person or intention to cause the death or serious injury of another person.	Applicant / licensee will not be licensed.	B. Crimes involving, related to or connected with abuse, exploitation use or treatment of another individual irrespective of whether the victim or victims were adults or children.	Applicant / licensee will not be licensed.	C. Offences involving violence against the person or connected with any violence against a person.	10 years	D. Possession of a weapon or any weapon-related offence.	7 years	E. Sexual offences and individuals listed on the Sex Offenders Register or barred lists.	Applicant / licensee will not be licensed.	F. Offences involving an element of dishonesty.	7 years	G. Drugs: i) Supply or possession with intent to supply. ii) Possession only.	10 years 5 years *	H. Discrimination offences.	7 years	I. Drink driving/driving under the influence of drugs.	7 years *	J. Using a handheld device whilst driving.	5 years	<p>Agreed that the new criteria be adopted alongside our own conviction guidelines with the more stringent criteria taking precedence.</p> <p>Implementation: Within 6 months</p>
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